

years executed for burglary¹ as a Class B felony. He raises two issues on appeal, which we restate as:

- I. Whether the trial court abused its discretion in sentencing Foreman.
- II. Whether the sentence is inappropriate based on the nature of the offense and Foreman's character.

We affirm.

FACTS AND PROCEDURAL HISTORY

On October 27, 2003, Foreman broke and entered Kelly Legg's home with the intent to commit a theft therein. Legg's dog scared Foreman away, and the police later apprehended him. While in custody, Foreman confessed to the crime.

The State charged Foreman with, and he pled guilty to, burglary as a Class B felony. During sentencing, the trial court noted as aggravators: Foreman's criminal history; Legg's statement that Foreman's sentence should be enhanced; and attempts at his rehabilitation have failed. The trial court also noted as mitigating factors that there is some indication of mental illness, Foreman continues efforts at education, and Foreman appeared to be remorseful. The trial court found the aggravators outweighed the mitigators and sentenced Foreman to sixteen years executed and four years suspended to probation. Foreman now appeals.

DISCUSSION AND DECISION

A sentencing decision is within the sound discretion of the trial court. *Edwards v.*

¹ See IC 35-43-2-1.

State 842 N.E.2d 849, 854 (Ind. Ct. App. 2006), *trans. denied* (citing *Jones v. State*, 790 N.E.2d 536, 539 (Ind. Ct. App. 2003)). If the sentence imposed is lawful, this court will not reverse unless the sentence is inappropriate based on the character of the offender and the nature of the offense. *Boner v. State*, 796 N.E.2d 1249, 1254 (Ind. Ct. App. 2003); *see also* Ind. Appellate Rule 7(B).

Foreman contends that the trial court failed to give appropriate weight to his guilty plea and his mental illness. We do not agree. First, a guilty plea is not a significant mitigator where the defendant received a substantial benefit from the plea or where the evidence against him suggests that his guilty plea was a pragmatic decision. *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied*. Here, the evidence against Foreman was overwhelmingly strong in the State's favor. Also, Foreman was originally charged with two separate crimes, and, if convicted, he could have received a total maximum sentence of twenty-three years executed and a \$20,000 fine. Instead, Foreman, received sixteen years executed with four years probation. Second, the trial court acknowledged Foreman's mental illness as a mitigating factor. However, the trial court was not required to apply as much mitigating weight as Foreman desires. *See Ousley v. State*, 807 N.E.2d 758, 761 (Ind. Ct. App. 2004) (mental illness is mitigating factor to be used in certain circumstances like a pervasive showing of mental illness throughout trial or when jury finds defendant to be mentally ill).

The most significant justification for Foreman's sentence is his criminal history. Over the past seventeen years Foreman has been convicted of burglary, attempted aggravated

burglary, aggravated burglary, two thefts, vandalism, three driving while suspended offenses, and simple assault. *Appellant's App.* at 5. Foreman admits that the trial court properly used his criminal history to enhance his sentence. We find that the trial court did not abuse its discretion when it impose Foreman's sentence. *See Mitchell v. State*, 844 N.E.2d 88, 91 (Ind. 2006).

Next, Foreman asks that we reduce his sentence based on the nature of the offense and his character. Ind. Appellate Rule 7(B). This court may revise a sentence it finds inappropriate even if the trial court followed the proper procedures in imposing the sentence. *Banks v. State*, 841 N.E.2d 654, 658 (Ind. Ct. App. 2006), *trans. denied*. Here, we do not agree that Foreman's sentence is inappropriate. Again, Foreman's criminal history defines his character, as the nature of the instant offense is consistent with Foreman's prior criminal conduct. Foreman broke into a house to find something to steal so that he could sell it and buy methamphetamine. The only thing that disrupted his crime was Legg's dog. Based on the nature of the offense and, especially, Foreman's character as defined by his criminal history, we do not find the sentence inappropriate.

Affirmed.

DARDEN, J., and MATHIAS, J., concur.